

SURFACE TRANSPORTATION BOARD

DECISION

STB Docket No. 42093

BP AMOCO CHEMICAL COMPANY

v.

NORFOLK SOUTHERN RAILWAY COMPANY

Decided: May 23, 2005

Pursuant to 49 U.S.C. 10701(d), 49 CFR Part 1111, and the Board's rate guidelines set forth at Rate Guidelines – Non-Coal Proceedings, 1 S.T.B. 1004 (1996), BP Amoco Chemical Company (BP) filed a rate complaint against Norfolk Southern Railway Company (NS), alleging that NS's rates for the transportation of Paraxylene from Decatur, AL, to Kingsport, TN, are unreasonable. The Board received the complaint on Friday, May 20, 2005, but did not receive a certificate of service until Monday, May 23, 2005. The complaint will be treated as having been filed on May 23, 2005, the date on which service was completed in conformance with the Board's rules. See 49 CFR 1111.3.

BP has requested Board-sponsored mediation to facilitate a negotiated resolution of the matter. BP also requests that the Board enjoin NS under 49 U.S.C. 721(b)(4) be enjoined from charging more than NS's latest offer of a contract rate for the issue traffic until such time as a negotiated resolution is reached or, failing that, until the Board renders a final decision on the reasonableness of the challenged rates.

Under 49 CFR Part 1109, mediation is not available in this case without NS's consent. See 49 CFR 1109.4 (imposing mandatory mediation only in cases handled under the stand-alone cost methodology). Therefore, NS should advise the Board whether it is willing to engage in mediation here. NS also will be directed to respond to BP's request for an injunction to govern NS's rates, pending the resolution of this proceeding. NS is directed to respond to these two issues by noon on Thursday, May 26, 2005.

It is ordered:

1. NS is directed to respond to BP's requests for mediation and for an injunction by noon on Thursday, May 26, 2005.
2. This decision is effective on its service date.

By the Board, Vernon A. Williams, Secretary.

Vernon A Williams

Secretary